

REMARKS

Claims 1-26 are pending in the present application. In the Office Action mailed October 26, 2006, the Examiner rejected claims 18-26 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner next rejected claims 1-7, 10-18, and 23-26 under 35 U.S.C. §103(a) as being unpatentable over Neville et al. (USP 6,272,636) in view of Leovac (USP 6,668,375). Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Neville et al. and Leovac, as applied to claim 1, and in further view of Linden et al. (USP 6,360,254). Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Neville et al. and Leovac, as applied to claim 18, and in further view of Earnest (USP 4,888,798). Claims 20-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Neville et al. and Leovac, as applied to claim 18, and in further view of Oki et al. (USP 6,115,471).

In regard to the rejections under §101, Applicant has amended claims 18-26. Though Applicant believes that computer programs and computer data signals are patentable subject matter, the amendments are made in an attempt to expedite prosecution of the present application, which has been pending for over six years. Further, Applicant notes that merely the preambles of the claims have been changed, not the substance of the claims. As such, Applicant believes that no equivalents are surrendered by the amendments made to claims 18-26 and requests that the rejection of these claims under §101 be withdrawn.

In substantively rejecting claim 1 under §103, the Examiner cited Neville et al. as teaching all elements of the claim except those elements concerning the requested/enabled “option.” In the Decision on Appeal of 05/09/06, the Board confirmed that Neville et al. does not teach the claimed elements regarding options. *Decision*, 05/09/06, pgs. 14-15. Therefore, the Examiner cited Leovac as teaching this claimed limitation. Applicant has filed concurrently herewith a Declaration Under 37 C.F.R. § 1.131 antedating the Leovac reference. A Petition Under §1.183 to allow for filing of the Declaration Under §1.131 without the signatures of all inventors has also been filed. Since Leovac should no longer be available as prior art, Applicant believes that a *prima facie* case of obviousness has not been made. Accordingly, Applicant respectfully requests withdrawal of the §103 rejection of claim 1 and all claims depending therefrom.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-26.

Applicant submits herewith with EFS-Web the fees associated with submission of the Petition Under §1.183 and the Petition for a 2 month Extension of Time.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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